

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Wesley S. Battey, Jr.,  
Plaintiff,  
vs.  
Jason Spurling,  
Defendant

Case No.: 2:14-cv-898-JAD-CWH

## Order Adopting Findings and Recommendation [#4] and Dismissing Action

10 In this pro se civil rights action, Wesley S. Battey, Jr. alleges that he was framed by Las  
11 Vegas Metropolitan Police officer Jason Spurling in 2012 for a theft he did not commit and subjected  
12 to cruel and unusual punishment by other unidentified arresting officers.<sup>1</sup> Magistrate Judge Carl W.  
13 Hoffman screened his complaint, discovered it is based on the same events alleged in case 2:13-cv-  
14 00537-APG-CWH, and ordered Battey to submit a statement explaining why the instant claims are  
15 not barred by the with-prejudice dismissal of his prior action.<sup>2</sup> Although Battey promptly provided a  
16 statement, it only confirms that the cases arise from the same events.<sup>3</sup> Magistrate Judge Hoffman  
17 now recommends that I dismiss this lawsuit because it is barred by the dismissal of Battey's claims  
18 with prejudice in the prior case.<sup>4</sup>

19 Battey timely objected to the Findings and Recommendation (Doc. 6), but his objection is  
20 merely an emotional plea that does not address the issues raised in the Findings and  
21 Recommendation, particularly the preclusive effect of the with-prejudice dismissal of his 2013 case.  
22 Nevertheless, I conducted a de novo review of the issues set forth in the Findings and  
23 Recommendation (Doc. 4) and reviewed the record from 2:13-cv-00537-APG-CWH. I conclude that

1 Doc. 5.

2 Doc. 2.

<sup>3</sup> Doc. 3 at 6-7

<sup>4</sup> Doc. 2, 4. See also Doc. 10 in 2:13-cv-00537-APG-CWH (dismissing action with prejudice).

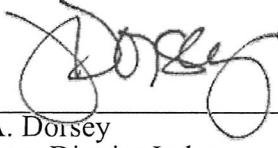
1 Judge Hoffman's Findings and Recommendation sets forth the proper legal analysis and factual basis  
2 for the decision.<sup>5</sup>

3 Accordingly, IT IS HEREBY ORDERED that Magistrate Judge Hoffman's Findings and  
4 Recommendation [Doc. 4] are **ADOPTED** in their entirety, and Battey's objections [Doc. 6] are  
5 **OVERRULED**;

6 IT FURTHER ORDERED, ADJUDGED, AND DECREED that **this action is dismissed**  
7 **with prejudice** for the reasons stated in the Findings and Recommendation.

8 The Clerk of Court is instructed to enter judgment accordingly and close this case.

9 DATED April 29, 2015

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Jennifer A. Dorsey  
United States District Judge

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<sup>5</sup> Even if these claims were not precluded by the dismissal of Battey's earlier case, they would likely be time-barred because the date of the allegedly false arrest was May 15, 2012, *see* Doc. 1, and Battey did not sign the instant complaint until more than two years later on June 1, 2014. *See, e.g., Perez v. Seavers*, 869 F.2d 425, 426 (9th Cir. 1989) (two-year statute of limitations for § 1983 claims in Nevada).